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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,202	08/08/2003	Dennis L. Hogan	C4-1199	4091

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IP LEGAL DEPARTMENT  
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EXAMINER

LA, ANH V

ART UNIT PAPER NUMBER

2636

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/637,202	Applicant(s) HOGAN, DENNIS L.	
	Examiner Anh V. La	Art Unit 2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-38 is/are allowed.
- 6) ☒ Claim(s) 1-13, 21-31 and 38-49 is/are rejected.
- 7) ☒ Claim(s) 14-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/8/03, 10/16/03</u> . | 6) <input type="checkbox"/> Other: ____  |

### DETAILED ACTION

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The specification is objected to because it does not contain a SUMMARY OF THE INVENTION.

4. Claims 27-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 27-30 recites the limitation "said outer wall" in line 1. There is insufficient antecedent basis for this limitation in the claim.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4, 11-13, 21-22, 29-31, 39-46, and 48, are rejected under 35 U.S.C. 102(b) as being anticipated by Niel.

Regarding claim 1, Niel discloses a security system comprising a security tag 4 to attach to an item, the tag having an outer wall 40, 16, and a detaching device (column 4, lines 40-60) having at least one driver rod, the driver rod penetrating the outer wall (at 43) to detach the tag from the item.

Regarding claims 21, 42, Niel discloses a security tag comprising a tack body 13, a security tag 4, and a clamp 50.

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Regarding claim 39, Niel discloses a detaching device comprising a security tag 4 comprising a tack body 13, a security tag 4, and a clamp 50, a monitoring system, and an alert system to communicate an alert (col. 1, lines 1-15, col. 2, lines 10-45).

Regarding claim 2, Niel discloses two driver rods (figure 1).

Regarding claim 3, Niel discloses a tack body 13, a security tag 4, a clamp 50, wherein the rod bends the clamp beyond a yield point to release the tack body.

Regarding claims 4, 22, Niel discloses a concave surface 8 having a first angle and a second angle (fig. 1).

Regarding claim 11, Niel discloses the wall having at least one aperture 43.

Regarding claims 12, 30, Niel discloses the tag having an upper housing and a lower housing, the lower housing having a protrusion, the wall having two access points (at 43) to allow penetration by the drivers rods to bend the clamp (fig.1).

Regarding claims 13, 31, Niel discloses the clamp comprising a center portion and two end portions, the housing having an abutment (fig. 1).

Regarding claim 29, Niel discloses an outer wall having two apertures 43.

Regarding claim 40, Niel discloses a security system comprising a security tag 4 to attach to an item, the tag having an outer wall 40, 16, and a detaching device (column 4, lines 40-60) having at least one driver rod, the driver rod penetrating the outer wall (at 43) to detach the tag from the item.

Regarding claim 41, Niel discloses a sensor emitting signals at a certain frequency (col. 1, lines 15-50, col. 2, lines 10-45).

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Regarding claim 43, Niel discloses the clamp 50 having a first position and a second position (fig. 1).

Regarding claims 44, 45, Niel discloses a outer wall 8 with apertures 43 (fig. 1, col. 4, lines 40-60).

Regarding claim 46, Niel discloses a detaching device comprising at least one driver rod and a driver rod activator to move the rod through an outer wall 8 of a security tag 4 to bend a clamp 50 (fig. 1, col. 4, lines 40-60).

Regarding claim 48, Niel discloses manual force to move the driver rod.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-10, 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niel.

Regarding claims 5-10, 23-28, Niel discloses all the claimed subject matter as set forth above in the rejection of claim 4, but does not disclose the first angle comprising 146-180 degrees (claims 5, 23) or 164 degrees (claims 6, 24), the second angle comprising 90-145 degrees (claims 7, 25) or 105 degrees (claims 8, 26), the force of 5 to 15 pounds (claims 9, 27), and the thickness of wall being 0.01 to 0.024 inches (claims 10, 28). However, it would have been obvious to have the first angle comprising 146-180 degrees or 164 degrees, the second angle comprising 90-145 degrees or 105

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degrees, the force of 5 to 15 pounds, and the thickness of wall being 0.01 to 0.024 inches since it is not inventive to discover the optimum or workable ranges by routine experimentation.

9. Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niel in view of Nowaczyk.

Regarding claims 47 and 49, Niel discloses all the claimed subject matter as set forth above in the rejection of claim 46, but does not disclose a motor. Nowaczyk teaches the use of a motor 102 (col. 5, lines 1-15). It would have been obvious at the time the invention was made to a person having ordinary skill in the art to include a motor to the device of Niel as taught by Nowaczyk for the purpose of moving the driver rod.

10. Claims 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 32-38 are allowed.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nguyen and Close teach security tags.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**ANH V. LA**  
**PRIMARY EXAMINER**

Anh V La  
Primary Examiner  
Art Unit 2636

AI  
September 11, 2005